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09/593,573	06/14/2000	Olivier Casile	YOR9-1999-0577-US1	7644

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EXAMINER

SHANG, ANNAN Q

ART UNIT PAPER NUMBER

2623

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/593,573

Applicant(s)

CASILE ET AL.

Examiner

Annan Q. Shang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24,26 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24,26 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/31/06 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 07/31/06 have been fully considered but they are not persuasive.

With respect to Claims 1-2, 12-13, 16-17 and 19 stand rejected under 102(e) as anticipated by **Yeo et al (6,870,573)**; claims 24 and 26-30 stand rejected under 102(e) as anticipated by **Inoue (6,496,896)**; and claims 4-8, 10, 14-15, 18 and 20-23 stand rejected under 103(a) as being unpatentable over Yeo in view of Inoue.

With respect to claims 1-2, 12-13, 16-17 and 19, applicant discusses the disclosure of Yeo and argues that "Yeo is not creating a schedule for delivery of secondary content in a predetermined relationship to non-cyclic broadcasting of the primary content..."

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Yeo discloses a computer system 130 or 230, which monitors multiple

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different available video channels from different video sources, a number of different program streams and repeatedly captures digital frames in real-time to form a visual summary and accesses the TV program schedule to create a schedule for delivery of the secondary data content in a predetermined relation to the non-cyclic broadcast of the primary content (col.3, line 51-col.4, line 15 and line 38-col.5, line 23). Yeo further teaches, that these process of monitoring and capturing of frames and repeatedly or cyclically delivering the captured secondary content, takes place at the transmitter or Server, where the captured frames or secondary content are transmitted, repeatedly or cyclically, in real-time with the video program and displayed with the video program (col.9, line 53-col.10, line 17). Hence applicant's arguments are not persuasive, the disclosure in Yeo meets all the claimed limitations, is proper and maintained.

With respect to claims 24 and 26 rejected under Inoue, applicant states that "the cite passages are not found in Yeo..."

In response, Examiner notes the typographical error in the heading of the 102(e) rejection, however in throughout the office action, Examiner discussed the Inoue reference and cited passages to meet all the claimed limitations. Hence, applicant's arguments are not persuasive, the rejection of claims 24 and 26-30 using Inoue is proper, meets all the claimed limitations and maintained.

With respect to claims 4-8, 10, 14-15, 18 and 20-23, applicant argues that, "Yeo does not teach or suggest the steps of..."

In response, Examiner maintains Yeo and Inoue references meets all the claimed limitations of the independent claims, and hence the 103(a) rejection of claims

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4-8, 10, 14-15, 18 and 20-23 as unpatentable over Yeo in view of Inoue. The rejection is hereby maintained as repeated below. Amendment claim 30 has also been discussed below. This Office Action is Non-final.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 12-13, 16-17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by **Yeo et al (6,870,573)**.

As to claim 1-2, note the **Yeo** reference figures 2 and 5-9 discloses, a method and apparatus for dynamically generating a visual program summary from a multi-source video feed and further discloses a method for providing secondary content related to primary content in a broadcast stream comprising the steps of:

Obtaining secondary content which relates to the main primary content (Computer System 'CS' 130/230, col.3, line 51-col.4, line 15 and col.4, line 38-col.5, line 23), note that CS-130/230 monitors multiple different available video channels from different video sources a number of different program streams and repeatedly captures

digital frames to form a visual program summary "secondary content" (col.5, lines 14) and CS-130/230 accesses the TV program schedule (col.9, lines 45-63);

Creates a schedule for delivery of the secondary data content in a predetermined relation to the non-cyclic broadcasting of the primary content (col.9, lines 45-63); and

Cyclically delivering the secondary content based on the schedule (col.9, lines 45-63),

As to claim 2, Yeo further discloses creating a schedule for the first delivery of the secondary content prior to delivery of the primary content and at least one successive delivery of the secondary content after commencement of delivery of the primary content (col.9, lines 45-63).

As to claim 12, Yeo further discloses the transport mechanism for the primary content is analog TV broadcast stream and the transport mechanism for the secondary content comprises VBI within the analog TV broadcast stream (col.4, lines 15-26 and col.9, lines 45-63)

As to claim 13, Yeo further discloses where the transport mechanism for the MPEG TV content is a digital television broadcast stream, and the transport mechanism for the secondary data is additional data stream within the digital television broadcast stream (col.9, lines 45-63).

As to claim 16, Yeo further discloses additional providing control information with the secondary data (col.5, lines 37-51 and col.9, line 45-col.10, line 6).

As to claim 17, Inoue further discloses where providing control information comprises including at least one unique identifier for the secondary data, an

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identification of the MPEG TV content to which the Web content pertains, scheduling information for future broadcasting of the secondary data, timing information regarding relating the GUI data to the MPEG TV content (col.5, lines 37-51 and col.9, line 45-col.10, line 6).

As to claim 19, the claimed "a system for providing secondary content related to a primary content..." is composed of the same structural element that were discussed in the rejection of claim 1.

5. Claims 24, 26 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by **Inoue (6,496,896)**.

As to claim 24, note the **Inoue** reference figures 1 and 4-8 discloses a transmission, reception and recording method and apparatus for a digital broadcast system and further discloses an apparatus for providing display of primary content and secondary content related to the primary content which is broadcast from a broadcast location comprising:

the claimed "a receiving component for receiving an input stream..." is met by Tuner/Front-ES 51 of IRD 112 (figs. 1, 11 and col. 20, lines 48-64) which receives an input stream from Terrestrial Station (Ter-S) 101 via satellite 102;

the claimed "a processing component for identifying cyclic secondary content..." is met by Central Processing Section (CPU) 80 (col. 20, line 57-col. 21, line 43 and col. 22, lines 28+) which identifies cyclic GUI data content "secondary content" such as: video, text, EPG, etc., which relates to the main primary content or TV program material

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)col. 10, lines 1-15 and col. 10, lines 32-41) ;

the claimed "at least one buffer location for receiving the secondary content..." is met by DSM-CC/MHEG Buffer 90 (col. 21, lines 39-67 and col. 22, lines 28+) which receives the GUI data content of the input stream from the CPU and buffers the GUI data content; and

the claimed "a display component for displaying..." is met by Display 58/114 (col. 12, lines 25-35 and col. 21, lines 51-67) which displays the GUI data content from the input stream and receives the GUI data content from DSM-CC/MHEG Buffer 90 and displays the GUI data content where the CPU 80 extracts information from the input stream and handles the GUI data content based on the control information, note that the GUI data service which provides a particular service other than an ordinary program broadcast which allows an operation for the GUI screen has an interactive performance or interactive broadcast (col. 12, lines 41-45 and col. 18, lines 6-17) and can be received at anytime, periodically and repetitively transmitted using a data Carousel (col. 19, lines 41-45).

As to claim 26, Inoue further discloses generating a request for retransmission of the GUI data from the broadcast location (col. 12, lines 41-45 and col. 17, line 50-col. 18, line 17 and col. 19, lines 10-45).

As to claim 30, note the **Inoue** reference figures 1 and 4-8 discloses a transmission, reception and recording method and apparatus for a digital broadcast system and further discloses a broadcast stream comprising:



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a main primary content or TV program material "first ephemeral primary content;" and GUI data "at least two iterations of cyclic secondary content" such as: video, text, EPG, etc., stored on GUI Data Server (GUI-DS) 109 of Terrestrial Station (Ter-S) 101 (fig. 1, col. 10, lines 1-15 and col. 10, lines 32-41), which relates to the main primary content or TV program material and is interspersed with the TV program material (figs. 5, 6A-6I, col. 15, line 55-col. 16, line 15, lines 28-41, col. 17, lines 12-21 and lines 33-62), note that T-S 101 schedules information regarding future broadcasts or the GUI data and timing information regarding relating GUI data to the primary content and cyclically delivers the GUI data content based on the scheduling and contains control information comprising at least unique identifier for the GUI data, and identification of the primary content to which the secondary content pertains (figs 8A-8F, col. 18, lines 18-40 and col. 19, lines 1-45), furthermore note that figs 6A-6I illustrates when the data are outputted from Ter-S 101, note further the GUI data service which provides a particular service other than an ordinary program broadcast which allows an operation for the GUI screen has an interactive performance or interactive broadcast (col. 12, lines 41-45 and col. 18, lines 6-17) and can be received at anytime, periodically and repetitively transmitted using a data Carousel (col. 19, lines 41-45), note further that GUI data precedes the first of the MPEG TV content and where successive ones of the at least two GUI data accompany portions of the first MPEG TV content (col. 10, lines 42-64, col. 15, line 43-col. 16, line 9 and line 42+), note the different GUI data are broadcast in a data carousel in all the channels carrying the MPEG TV content to enable the consumer to access at anytime on demand.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-8, 10 14-15, 18, 20-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Yeo et al (6,870,573)** in view of **Inoue (6,496,896)**.

As to claim 4-8, Yeo teaches all the claimed limitations as previously discussed with respect to claims 1 and 3 above, but fails to explicitly teach dynamically modifying the schedule by adjusting the schedule based on the viewer's interaction, receiving at least one viewer request for retransmission and rebroadcasting of the Web content and responds to the at least one viewer request, generating the request based on the viewer profile and interaction and transmitting the GUI accordingly

However, note the Inoue reference discloses dynamically modifying the schedule by adjusting the schedule based on the viewer's interaction, receiving at least one viewer request for retransmission and rebroadcasting of the Web content and responds to the at least one viewer request, generating the request based on the viewer profile and interaction and transmitting the GUI accordingly (col.9, lines 45-63, col. 12, lines 41-45 and col. 17, line 50-col. 18, line 17 and col. 19, lines 10-45), note that the GUI data service which provides a particular service other than an ordinary program broadcast which allows an operation for the GUI screen has an interactive performance or interactive broadcast and can be received at anytime, periodically and repetitively

transmitted using a data Carousel and the user can interact or request and receive any portion of the GUI at anytime as desired.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Inoue into the system of Yeo to dynamically adjust the schedule based on a user interaction in order to provide the secondary content on-demand.

As to claim 10, Yeo further discloses narrowcasting the GUI data (col.4, line 54-col.5, line 14 and col.9, lines 45-63).

As to claims 14-15, Yeo teaches all the claimed limitations as previously discussed with respect to claim 1, but fails to explicitly teach the claimed limitation, which has been previously discussed with respect to claim 4-8.

As to claim 18, Yeo teaches all the claimed limitations as previously discussed with respect to claim 5 above, but fails to explicitly teach the claimed limitation, which is met as previously discussed with respect to claims 4-8

As to claims 20-23, Yeo teaches all the claimed limitations as previously discussed with respect to claim 19 above, and further teaches transmitting secondary content over coaxial cable and over wireless, but fails to explicitly teach the claimed limitation, which is met as previously discussed with respect to claim 4-8.

8. Claim 11, is rejected under 35 U.S.C. 103(a) as being unpatentable over **Yeo et al (6,870,573)** as applied to claim 1 above, and further in view of **Mankovitz (WO 98/48566)**.

As to claim 11, Yeo fails to explicitly teach displaying notification data for notifying the viewer of the delivery of Web content.

However, **Mankovitz** teaches a method and apparatus for time-shifting video and text in a text-enhanced television program, where an "icon" notification data for notifying the viewer of the delivery of local content is displayed on a television to enable the viewer to be aware of secondary content (page 5, line 15-page 6, line 17).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Mankovitz into the system of Yeo to display an icon to notify the viewer of the presence of secondary data to enable the viewer to interactive and retrieve the secondary data as desired.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Yeo et al (6,870,573)** in view of **Inoue (6,496,896)** as applied to claims 8 above, and further in view of **Dureau et al (6,288,738)**.

As to claim 9, Yeo as modified by Inoue, fail to explicitly teach counting the number of viewer requests for retransmission of the Web content and rebroadcasting the Web content upon receipt of a threshold number of viewer requests for retransmission.

However, note **Dureau** reference discloses method and apparatus for seamless connectivity of wide-band networks and narrow-band networks where a Headend 110 determines routing of Internet data via wide-band networks and narrow-band networks based on a criteria (fig. 3 and col. 5, lines 36-59), such as cost, bandwidth, size of data,

number of requests, etc., and rebroadcasts the Internet requested data via wide-band network or the narrow band network (fig. 5 and col. 6, line 50-col. 7, line 14).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Dureau into the system of Yeo as modified Inoue to provide a Headend which responds to viewer requests for Web content, and based on a threshold rebroadcast the Web content via the wide-band network for faster responses to consumer requests.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', written over a horizontal line.

**Annan Q. Shang**